

RESOLUTION NUMBER R- 309776

DATE OF FINAL PASSAGE JUN 02 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN  
DIEGO GRANTING CONDITIONAL USE PERMIT NO. 1309381  
AND SITE DEVELOPMENT PERMIT NO. 1309378 FOR THE  
JACOBS & CUSHMAN SAN DIEGO FOOD BANK  
WAREHOUSE PROJECT - PROJECT NO. 367812.

WHEREAS, Jacobs & Cushman San Diego Food Bank, Owner/Permittee, filed an application with the City of San Diego for a permit to install and operate a composting machine (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1309381/1309378), within an existing building on portions of a 4.63-acre site; and

WHEREAS, the project site is located at 9850 Distribution Avenue in the IL-2-1 zone, which is proposed to be rezoned to the IL-1-1 zone in the Mira Mesa Community Planning Area; and

WHEREAS, the project site is legally described as Parcel 1 of Parcel Map No. 12403, in the City of San Diego, County of San Diego, State of California, Filed in the Office of the County Recorder of San Diego County, October 29, 1982; and

WHEREAS, on January 30, 2015, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) under CEQA Guideline Section 15301 and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; and

WHEREAS, on March 19, 2015, the Planning Commission of the City of San Diego considered Conditional Use Permit (CUP) No. 1309381 and Site Development Permit (SDP) No. 1309378, and pursuant to Resolution No. 4668 -PC voted to recommend approval of the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on JUN 02 2015, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 1309381 and Site Development Permit No. 1309378:

**A. CONDITIONAL USE PERMIT– SAN DIEGO MUNICIPAL CODE (SDMC)  
SECTION §126.0305**

**1. The proposed development will not adversely affect the applicable land use plan.** The project site is located within the Mira Mesa Community Plan (MMCP) and is designated as Light Industrial. This designation is intended for manufacturing, storage, warehousing, distribution and similar uses. The purpose of the IL (Light Industrial) zones are to provide for a wide range of manufacturing and distribution activities. The development standards of this zone are intended to encourage sound industrial development by providing an attractive environment free from adverse impacts associated with some heavy industrial uses.

The Jacobs & Cushman San Diego Food Bank (Food Bank) is the central food distribution hub for hunger-relief operations in San Diego. The warehouse is 90,856 square feet, including a 6,018 square foot, recently completed addition, which is proposed to house an aerobic in-vessel rotary drum composting system to recover the Food Bank's food waste scraps and convert them to useful organic compost.

The existing IL-2-1 zone allows a mix of light industrial and office uses with limited commercial uses. Mixed Organic Composting Facilities are not permitted in the IL-2-1 zone; therefore the project proposes a rezone to IL-1-1, which pursuant to San Diego Municipal Code section 141.0620(g), allows these facilities with a Conditional Use Permit. The proposed IL-1-1 zone allows primarily light industrial uses and would better implement the goals and objectives of the MMCP Light Industrial designation. It would also address the General Plan Economic Prosperity Element policies related to the site's identification as Prime Industrial Lands by further limiting the ability for non-industrial commercial encroachment. Prime Industrial Lands are areas that support export-oriented base sector activities such as warehouse distribution, heavy or light manufacturing, research and development uses.

The proposed zone change to IL-1-1 from IL-2-1 allows for composting activities with the granting of a Conditional Use Permit and would not adversely affect the land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed composting machine and composting activities will occur within the fully enclosed existing Food Bank warehouse. Composting activities will only support internal operations and will not be open to the public. All composting activities will comply with applicable City of San Diego Composting General Regulations, San Diego Municipal Code section 141.0620(g). Further, the mixed organic composting activities are excluded from the requirements of Title 14 California Code of Regulations, Compostable Material Handling regulations as the Food Bank will be composting less than 50 cubic yards within a vessel composting machine (14 CCR § 17855). All composting material would be generated in-house from sorting through local food donations. Spoiled or unusable food would be inserted into the composting machine and used to make useful compost to be hauled off-site daily. All packaging associated with food would be separated and bailed for recycling enabling the Food Bank to greatly reduce its waste output. The system would use wood chips sourced from local furniture makers and lumber mills as a bulking agent/carbon source. Due to the aerobic, in-vessel design, odor issues are non-existent. All composting activities will occur within the fully enclosed warehouse and will create no additional measurable noise, odor or traffic to the current Food Bank operations. The amount of traffic to the site could potentially be reduced given the Food Bank will be compacting and bailing all recyclable products reducing the footprint of their current waste output, requiring less trips from recycling trucks to the site. Composting operations take place in the in-vessel composting machine and place no additional health or safety risks to the public or Food Bank employees.

The proposed conditional use permit complies with the City of San Diego Composting General Regulations and the California Code of Regulations and will not be detrimental to public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** Mixed Organic Composting Facilities are not permitted in the IL-2-1 zone; therefore the project proposes a rezone to IL-1-1. Mixed Organic Composting activities are permitted within the proposed industrial zone, IL-1-1, with a Conditional Use Permit, pursuant to SDMC Table 131-06B.

The Food Bank is the central food distribution hub for hunger-relief operations in San Diego. The warehouse is 90,856-square feet, including a 6,018-square foot, recently completed addition, which is proposed to house an aerobic in-vessel rotary drum composting system to recover the Food Bank's food waste scraps and convert them to useful organic compost. The Food Bank warehouse building complies with all of the IL-1-1 development regulations. All composting activities will comply with applicable City of San Diego Composting General Regulations, San Diego Municipal Code section 141.0620(g). Further, the mixed organic composting activities are excluded from the requirements of Title 14 California Code of Regulations, Compostable Material Handling regulations as the Food Bank will be composting less than 50 cubic yards within a vessel composting machine (14 CCR § 17855).

No deviations are proposed with this project. With the approval of the Conditional Use Permit, the Food Bank will comply with the regulations of the Land Development Code.

**4. The proposed use is appropriate at the proposed location.** The Food Bank currently operates as a light industrial warehouse entity in an industrial area of Mira Mesa. Their operations include wholesale, distribution, storage and office space for their hunger relief operations in San Diego. The project site is surrounded by light industrial uses.

The project proposes to rezone the property to IL-1-1 and obtain a Conditional Use Permit, which would allow the Food Bank to install an aerobic in-vessel rotary drum composting system to recover their food waste scraps and convert them to useful organic compost. The existing warehouse building is 90,856 square feet, including a 6,018 square foot, recently completed addition, which will house the compost machine. As part of their operations, they haul over 500,000 pounds of food waste per year to local landfills. The proposed composting activities will allow the Food Bank to carry out their current operations in a more sustainable, environmentally friendly manner greatly reducing their waste products. Therefore, the proposed use is appropriate at this location.

## **B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504**

**1. The proposed development will not adversely affect the applicable land use plan.** The project site is located within the Mira Mesa Community Plan (MMCP) and is designated as Light Industrial. This designation is intended for manufacturing, storage, warehousing, distribution and similar uses. The purpose of the IL (Light Industrial) zones are to provide for a wide range of manufacturing and distribution activities. The development standards of this zone are intended to encourage sound industrial development by providing an attractive environment free from adverse impacts associated with some heavy industrial uses.

The Food Bank site lies within the MCAS Miramar Airport Environs Overlay Zone, Airport Influence Area, Overflight Notification Area and the FAA Part 77 Noticing Area for MCAS Miramar. It is also within the Airport Land Use Compatibility Overlay Zone, which requires a Process 5 Site Development Permit and a consistency determination from the San Diego County Regional Airport Authority. On September 10, 2014, the Airport Land Use Commission for San Diego County determined that the project is consistent with the MCAS Miramar Airport Land Use Compatibility Plan (ALUCP) based on several facts including no

change in the height of the building, the location is not in a safety zone and the location does not contain residential uses which would required overflight notification.

The Food Bank is the central food distribution hub for hunger-relief operations in San Diego. The warehouse is 90,856 square feet, including a 6,018 square foot, recently completed addition, which is proposed to house an aerobic in-vessel rotary drum composting system to recover the Food Bank's food waste scraps and convert them to useful organic compost.

The existing IL-2-1 zone allows a mix of light industrial and office uses with limited commercial uses. Mixed Organic Composting Facilities are not permitted in the IL-2-1 zone; therefore the project proposes a rezone to IL-1-1, which pursuant to San Diego Municipal Code section 141.0620(g), allows these facilities with a Conditional Use Permit. The proposed IL-1-1 zone allows primarily light industrial uses and would better implement the goals and objectives of the MMCP Light Industrial designation. It would also address the General Plan Economic Prosperity Element policies related to the site's identification as Prime Industrial Lands by further limiting the ability for non-industrial commercial encroachment. Prime Industrial Lands are areas that support export-oriented base sector activities such as warehouse distribution, heavy or light manufacturing, research and development uses.

The proposed project, including a zone change to IL-1-1 from IL-2-1 allows for composting activities with the granting of a Conditional Use Permit and would not adversely affect the land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed composting machine and composting activities will occur within the fully enclosed existing Food Bank warehouse. Composting activities will only support internal operations and will not be open to the public. All composting activities will comply with applicable City of San Diego Composting General Regulations, San Diego Municipal Code section 141.0620(g). Further, the mixed organic composting activities are excluded from the requirements of Title 14 California Code of Regulations, Compostable Material Handling regulations as the Food Bank will be composting less than 50 cubic yards within a vessel composting machine (14 CCR 17855). All composting material would be generated in-house from sorting through local food donations. Spoiled or unusable food would be inserted into the composting machine and used to make useful compost to be hauled off-site daily. All packaging associated with food would be separated and bailed for recycling enabling the Food Bank to greatly reduce its waste output. The system would use wood chips sourced from local furniture makers and lumber mills as a bulking agent/carbon source. Due to the aerobic, in-vessel design, odor issues are non-existent. All composting activities will occur within the fully enclosed warehouse and will create no additional measurable noise, odor or traffic to the current Food Bank operations. The amount of traffic to the site could potentially be reduced given the Food Bank will be compacting and bailing all recyclable products reducing the footprint of their current waste output, requiring less trips from recycling trucks to the site. Composting operations take place in the in-vessel composting machine and place no additional health or safety risks to the public or Food Bank employees.

The proposed conditional use permit complies with the City of San Diego Composting General Regulations and the California Code of Regulations and will not be detrimental to public health, safety, and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.** Mixed Organic Composting Facilities are not permitted in the IL-2-1 zone; therefore the project proposes a rezone to IL-1-1. Mixed Organic Composting activities are permitted within the proposed industrial zone, IL-1-1, with a Conditional Use Permit, pursuant to SDMC Table 131-06B.

The Food Bank is the central food distribution hub for hunger-relief operations in San Diego. The warehouse is 90,856 square feet, including a 6,018 square foot, recently completed addition, which is proposed to house an aerobic in-vessel rotary drum composting system to recover the Food Bank's food waste scraps and convert them to useful organic compost. The Food Bank warehouse building complies with all of the IL-1-1 development regulations. All composting activities will comply with applicable City of San Diego Composting General Regulations, Land Development Code section 141.0620(g). Further, the mixed organic composting activities are excluded from the requirements of Title 14 California Code of Regulations, Compostable Material Handling regulations as the Food Bank will be composting less than 50 cubic yards within a vessel composting machine (14 CCR § 17855).

The Food Bank site lies within the MCAS Miramar Airport Environs Overlay Zone, Airport Influence Area, Overflight Notification Area and the FAA Part 77 Noticing Area for MCAS Miramar. It is also within the Airport Land Use Compatibility Overlay Zone, which requires a Process 5 Site Development Permit and a consistency determination from the San Diego County Regional Airport Authority. On September 10, 2014, the Airport Land Use Commission for San Diego County determined that the project is consistent with the MCAS Miramar Airport Land Use Compatibility Plan (ALUCP) based on several facts including no change in the height of the building, the location is not in a safety zone and the location does not contain residential uses which would require overflight notification.

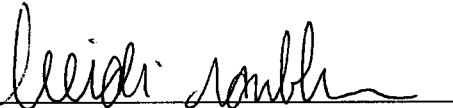
With the approval of the Conditional Use Permit, the Food Bank will comply with the regulations of the Land Development Code. No deviations are proposed with this project.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Conditional Use Permit No. 1309381/Site Development Permit No. 1309378 is granted to Jacobs & Cushman San Diego Food Bank, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a

part of this resolution, contingent upon final passage of O- **20505** rezoning the project site from the existing IL-2-1 zone into the IL-1-1 zone.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Heidi K. Vonblum  
Deputy City Attorney

HKV:nja  
04/14/15  
Or.Dept: DSD  
Doc. No.: 994760

Attachment: Conditional Use Permit/Site Development Permit

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004616

**CONDITIONAL USE PERMIT (CUP) NO. 1309381**  
**SITE DEVELOPMENT PERMIT (SDP) NO. 1309378**  
**JACOBS & CUSHMAN SAN DIEGO FOOD BANK**  
**WAREHOUSE**  
**PROJECT NO. 367812**  
**CITY COUNCIL**

This Conditional Use Permit No. 1309381/Site Development Permit No. 1309378 (Permit) is granted by the City Council of the City of San Diego to Jacobs & Cushman San Diego Food Bank, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0303 and 132.1502. The 4.63-acre site is located at 9850 Distribution Avenue in the IL-2-1 zone (proposed IL-1-1) of the Mira Mesa Community Plan. The project site is legally described as: Parcel 1 of Parcel Map No. 12403, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, October 29, 1982.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a mixed organic composting facility described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated **JUN 02 2015** on file in the Development Services Department.

The project shall include:

- a. A mixed organic composting facility located within an existing 6,018-square foot addition on the existing Jacobs & Cushman San Diego Food Bank property;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;



- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by JUN 02 2018
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits.
8. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable

building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

### **LOCAL ENFORCEMENT AGENCY REQUIREMENTS:**

12. The proposed composting operation is eligible for an exclusion from the requirements of Title 14 California Code of Regulations, Compostable Material Handling regulations (14 CCR) pursuant to the following operational parameters:

14 CCR § 17855 – Excluded activities: Within-vessel composting process with less than 50 cubic yard capacity are excluded.

Nothing in this section precludes the City of San Diego Solid Waste Local Enforcement Agency (LEA) or Cal Recycle from inspecting this activity to verify that it is within vessel process processing less than 50 cubic yards of feedstock. If the activity is being conducted outside these parameters and no longer qualifies as an excluded activity the LEA may take appropriate enforcement actions.

### **PLANNING/DESIGN REQUIREMENTS:**

13. No fewer than 121 parking spaces including 5 accessible spaces (121 parking spaces provided including 5 accessible spaces) shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.
14. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

### **INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on JUN 02 2015 by Resolution  
No. R-309776

Conditional Use Permit No. 1309381/Site Development Permit No. 1309378  
Date of Approval: \_\_\_\_\_

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

\_\_\_\_\_  
Karen Lynch  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**Jacobs & Cushman San Diego Food Bank**  
Owner/Permittee

By \_\_\_\_\_

Passed by the Council of The City of San Diego on JUN 02 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 02 2015.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By  , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309776